

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of CHEHOWSKI/SAMS, Minors.

UNPUBLISHED

April 29, 2014

No. 318603

Branch Circuit Court

Family Division

LC No. 12-004770-NA

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Before: BORRELLO, P.J., and WHITBECK and K. F. KELLY, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's orders terminating her parental rights to the minor children ZC, TC, and BS under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (c)(ii) (other conditions exist that could have caused child to come within the trial court's jurisdiction and they have not been rectified), and (j) (reasonable likelihood of harm if child is returned to parent). For the reasons set forth in this opinion, we affirm.

On appeal, respondent argues that the trial court clearly erred by terminating her parental rights. Although the trial court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), and (j), this appeal only addresses whether the trial court clearly erred by terminating her parental rights pursuant to MCL 712A.19b(3)(c)(i) and (c)(ii), in part, because a trial court need only find that one statutory ground is satisfied by clear and convincing evidence in order to terminate parental rights, *In re HRC*, 286 Mich App at 461. Because a trial court need only find one statutory ground for termination, we specifically address MCL 712A.19b(3)(c)(i).

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). "We review the trial court's determination for clear error." *Id.* "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

Termination is proper under MCL 712A.19b(3)(c)(i) when the "parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order and the court, by clear and convincing evidence, finds . . . [t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age." This Court

has previously held that termination was proper under MCL 712A.19b(3)(c)(i) where “the totality of the evidence amply support[ed] that [the respondent] had not accomplished any meaningful change in the conditions” that led to adjudication. *In re Williams*, 286 Mich App 253, 272; 779 NW2d 286 (2009). Here, the record establishes that “182 or more days” had “elapsed since the issuance of an initial dispositional order.” See MCL 712A.19b(3)(c)(i). The conditions that led to adjudication were physical abuse within the home, substance abuse, and respondent’s inability to provide care to the children because she was incarcerated.

The record establishes that respondent had a long history of engaging in violence, some of which, with respondent’s male partners, led to criminal convictions. On May 28, 2012, respondent pled guilty to fourth-degree child abuse in relation to her physical abuse of one of her minor children. While incarcerated, respondent participated in individual therapy to address her poor coping skills and tendency to resort to violence. Although she was required to accept full responsibility for her actions in order to begin to rectify the conditions that led to removal and prevent future abuse, throughout a majority of the proceeding, respondent blamed the minor child for whom she was convicted of abusing for her “legal trouble.” She also blamed this minor child for the fact that two other minor children were removed from her care. Also, less than four months before termination, respondent told a Department of Human Services (DHS) employee that she thought about killing the employee on a daily basis. Respondent pled guilty to disorderly person in relation to the threats, and she tried to minimize the serious nature of her comments when she testified at the termination hearing. Respondent made minimal progress in therapy, in part because she never admitted in therapy that she had physically abused her minor child until the day of the termination hearing.

Coupled with her history of violence, respondent also had a long history of abusing alcohol. In October 2012, respondent entered inpatient treatment in lieu of serving a portion of the jail sentence for the fourth-degree child abuse conviction. In November 2012, respondent was asked to leave that inpatient treatment facility because she refused to accept responsibility for her actions and was not admitting that she had an addiction to alcohol. She then returned to jail. After respondent was released from jail in March 2013, she was ordered to complete substance abuse counseling and participate in substance screenings. In May 2013, respondent tested positive for alcohol three times and failed to attend one screening. She continued to report that she was not addicted to alcohol in the months leading up to termination. At the time of the September 27, 2013 termination hearing, respondent had not received services related to substance abuse for at least 6 months because she refused to address it in individual therapy. It was not until the termination hearing that respondent admitted that she was an alcoholic.

The record also establishes that respondent was unable to provide care to the children at the time of termination because she was serving a jail sentence in relation to the threatening comments she made to the DHS employee. During the termination hearing, respondent admitted that she was not able to take care of herself or her minor children. Respondent requested additional time so she could prove that she could provide for herself and her minor children, but she gave no basis on which the trial court could formulate a timeline that respondent’s behavior would change to any degree.

Respondent argues on appeal that she would have been able to rectify the barriers to reunification if given additional time to complete services. However, as previously noted, there

is no record evidence of how or if she would rectify the conditions within a reasonable time considering the ages of the children. See MCL 712A.19b(3)(c)(i). Throughout a majority of the proceeding, respondent refused to admit that she was an alcoholic and failed to accept responsibility for abusing her minor child. As a result, respondent failed to make progress during the 16-month proceeding. At the time of termination, all three of her minor children required permanency because of their emotional and behavioral problems.

Our review of the record evidence presented in this matter leads us to conclude that: “[T]he totality of the evidence amply supports” that respondent “had not accomplished any meaningful change” in the conditions that led to adjudication. *In re Williams*, 286 Mich App at 272. Consequently, the trial court’s finding that termination of respondent’s parental rights was proper pursuant to MCL 712A.19b(3)(c)(i) does not leave us with a definite and firm conviction that a mistake has been made. *In re HRC*, 286 Mich App at 459.

Because we have concluded that at least one ground for termination existed, we will not specifically consider the additional grounds upon which the trial court based its decision. *In re HRV*, 286 Mich App at 461.

Respondent next argues that termination of her parental rights was not in the children’s best interests. “Once a statutory ground for termination has been proven, the trial court must find that termination is in the child’s best interests before it can terminate parental rights.” *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012); MCL 712A.19b(5). We review a trial court’s finding that termination is in the minor child’s best interests for clear error. *In re HRC*, 286 Mich App at 459. In *In re VanDalen*, 293 Mich App at 141, when reviewing best interests, this Court looked at evidence that the children were not safe with the parents and that they were thriving in foster care. A trial court may also consider whether the parent has a healthy bond with the minor child when determining best interests. *In re CR*, 250 Mich App 185, 196-197; 646 NW2d 506 (2002).

The record establishes that the children were exposed to a chaotic, dysfunctional, and abusive environment while in respondent’s care. All three of the minor children were diagnosed with psychological disorders directly attributable to respondent’s lack of care, alcoholism, and violent behavior. The eldest child was forced to take on the role of their mother’s protector, and the record establishes that respondent was either unable or unwilling to establish a healthy parent-child relationship with the oldest minor during the proceeding. As a result, interactions with respondent caused the oldest minor child anxiety because respondent continued to have unrealistic and unhealthy expectations of him. At the time of termination, their relationship was likened to that of a husband and a wife instead of a mother and son. Therefore, the record establishes that, although respondent and the oldest minor child were bonded, the bond was not a healthy parent-child bond. See, *In re CR*, 250 Mich App at 196-197.

When the youngest minor child entered care, she was diagnosed with post traumatic stress disorder and depression. She was fearful of respondent and refused to discuss her. After parenting time sessions began, the youngest minor child began acting out. At times, respondent failed to appropriately interact with the youngest minor child during parenting time. Although respondent was required to accept full responsibility for her actions in order to help her youngest minor child heal from the trauma that she experienced while in respondent’s care, respondent

refused to do so throughout a majority of the proceeding. At the time of the termination hearing, the youngest minor child continued to be apprehensive of respondent. Thus, the record establishes that respondent did not have a healthy bond with her youngest minor child. *Id.*

With respect to her middle child, as previously stated, respondent blamed him for her fourth-degree child abuse conviction and the fact that the other two minor children had been removed from her care. Not surprisingly, the middle minor child expressed multiple times during the proceeding that he did not want to return to respondent's care, and respondent was vocal about her dislike for her middle child. During the proceeding, respondent failed to address her propensity to resort to violence and service providers were concerned about the middle child's wellbeing in respondent's care. Thus, the record establishes that respondent did not have a healthy bond with her middle child, see *In re CR*, 250 Mich App at 196-197, and that her middle child was at risk of harm in her care, *In re VanDalen*, 293 Mich App at 141.

While respondent argues that it was in the best interests of the minor children to give her more time to complete services, this Court has to look at the best interests of the children, including their need for stability. See *In re Trejo Minors*, 462 Mich 341, 364; 612 NW2d 407 (2000). The record clearly establishes that respondent failed to address her alcoholism and tendency to resort to violence during the proceeding. At the time of termination, the youngest and oldest minor children were doing well in their foster care placements, which were providing them the stability that they needed. *In re VanDalen*, 293 Mich App at 141. The middle child, who had been placed in a residential facility because of his behavioral problems, was also receiving the stability that he needed in order to improve. *Id.* Although the record evidence supports that the oldest minor child was bonded with respondent and would likely experience grief as a result of the termination of her parental rights, termination was necessary for him to gain the stability that he needed and that respondent could not provide. *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008). Further, although termination resulted in the children being separated,<sup>1</sup> termination of respondent's parental rights was necessary to ensure the safety of each of the children. See *In re Olive/Metts*, 297 Mich App at 42. Based on a review of the record, the trial court correctly concluded that terminating respondent's parental rights was in the children's best interests and, thus, it did not clearly err. MCL 712A.19b(5); *In re HRC*, 286 Mich App at 459.

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<sup>1</sup> The middle child had to be removed from the same foster home as the oldest child based in part on the oldest child relying on respondent's contention that the middle child was solely responsible for the disintegration of the family. Throughout these proceedings it became clear that the middle child had been ostracized by the other two minor children based, in large part, on the words and actions of respondent. Additionally, during these proceedings, the youngest child was never placed with either of the two older children.

Affirmed.

/s/ Stephen L. Borrello  
/s/ William C. Whitbeck  
/s/ Kirsten Frank Kelly